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As stated on page 2-1, "The 70R strategy was eliminated from consideration as an alternative in this DEIS because modeling results from 70R strategy are very similar to the Flood Control Alternative, which is evaluated in this DEIS." This rationale is not sufficient justification to eliminate a strategy that has been used for many years as a baseline for surplus criteria. The proof that 70R has been used as the baseline before the publication of this DEIS is stated unambiguously on page 2-5, "Reclamation has utilized a 70R strategy for both planning purposes and studies of surplus determinations in past years."

Also, on page 2-5, the DEIS states, "When Reclamation reviewed previous surplus determinations as part of this DEIS effort, the data indicated that the 1997 surplus determination did not precisely fit the 70R strategy. Therefore, in an attempt to characterize recent operational decisions in a manner that could be modeled for baseline purposes, Reclamation determined that a 75R strategy would provide a more accurate representation of "no action" than a 70R strategy." There is no explanation for the selection of the 1997 surplus determination as the representative year that characterizes recent operational decisions. We do not believe that 1997 was a representative year. Furthermore, we dispute the contention that the intent of the surplus decision was to change the 70R criteria as the baseline. 70R should be the baseline assumption for analysis purposes in the FEIS.

The DEIS also states on page 2-5, "While the 75R strategy is used to represent baseline conditions, it does not represent a decision by Reclamation to utilize the 75R strategy for determination of future surplus conditions." Arizona strongly agrees with this decision and would not support the use of the 75R strategy to determine future surplus conditions merely because this strategy was used as the "no action" baseline for this DEIS. We strongly suggest that 70R be used as a baseline and thereby avoid creating any erroneous future expectations.

7 The descriptions of both the assumed baseline 75R criteria and the Flood Control Alternative indicate that once a threshold determination is made, a surplus is declared. The surplus volume is apparently unquantified and water is made available to all by contractors for surplus water. We believe that such an approach, even if it has been past practice, is inconsistent with the intent of Section II(B)(2) of the *Arizona v California* decree. It is the intent of the decree that the Secretary determine a volume of water available for surplus and then distribute that water 50% to California, 46% to Arizona, and 4% to Nevada. The Bureau's method circumvents that process. By simply requesting a supply greater than half of the overall demand, California would receive more than its legal share of surplus. We believe the DEIS, and the Bureau's current practice, need to be revised to recognize the restrictions relating to surplus in Article II(B)(2) of the Supreme Court decree.

8 The proposed Six States Alternative is based on the document dated December 4, 1998 presented in Attachment D. As one of the participants in the development of the Six State paper, ADWR questions why the Bureau did not adopt that proposal as it was presented, rather than making modifications to it. For example, the Six States paper uses a surplus tier based on a 70 R strategy, but the Bureau alternative changed that tier to 75 R. (Although the Draft Guideline presented in Attachment H refers to the 70th percentile runoff not the 75th percentile.) In preparing the guidelines for the Six State Alternative the volume of surplus under two of the tiers appear to be inconsistent with the volumes that were modeled using the

7: Reclamation and the Department agree that the determination of surplus must be consistent with Article II(B)(2) of the Decree in *Arizona v. California*. The assumption that the Baseline and Flood Control Alternative declare a "full surplus" (unquantified surplus), reflects the fact that the system is relatively full under those conditions.

8: Reclamation used the 75R strategy for the upper tier of the Six States Alternative and for the period of analysis after the end of the interim period. Because 75R was selected as the baseline, Reclamation was concerned that the use of 70R as presented in the Six States Proposal would introduce inconsistencies into the modelling and compromise the results. In as much as 70R is being used for the baseline in this FEIS, the description of the Six States Alternative will include 70R operation as initially proposed by the States. The inconsistencies in descriptions have been corrected.

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cont'd | tables in Attachment G. This inconsistency leads us to question if the Bureau has accurately evaluated this alternative.
- 9 | • The Shortage Protection Alternative, described beginning on page 2-13, should not have been included as an alternative, because it is an inappropriate operating mode for the reservoir. Operating the reservoir under these criteria would provide an excessive amount of surplus water to California at the expense of the junior water right holders in Nevada and Arizona. It would be irresponsible to use such a mode of operation where the benefits to the Lower Basin states would be so inequitable.
- 10 | • Upper Basin depletions were based on 1996 projections, as stated under Common Modeling Assumptions on page 3.3-9. More recent projections are available and should be used in the FEIS if possible. Current depletion data should be incorporated into the model because actual reservoir elevations from January 1, 2000 are used.
- 11 | • The DEIS states on page 3.3-9 that the baseline No Action Alternative and the Flood Control Alternative did not include the implementation of the California 4.4 Plan. Some water transfers have been agreed to, including the IID to MWD transfer 1988 agreement. Any water transfers that are completed should be included in the assumptions.
- 12 | • The Lower Basin depletion schedules shown in Attachment G do not coincide with the most recent schedules being used in modeling efforts by the Basin States, including the schedule for Normal conditions with the California transfers. Under the most recent version of the Seven Basin State Proposal as published in the federal register, MWD's demand during the interim period for a Full Domestic Surplus should be 1,250 kaf instead of 1,212 kaf.
- 13 | • As stated on page 3.4-5, "The CAP shortage condition depletion schedule used for the analysis remains constant at 1.0 maf over the period of analysis. Additionally, there will also be other shortage condition reductions that affect CAP priority contractors that use water directly from the Colorado River. This quantity is not quantified; however, normal year supplies could be reduced by as much as 35 percent." This is an incorrect description of the Arizona supply during a shortage year. Under the current modeling method, which limits the CAP supply to 1.0 maf, the shortage applies equally to the CAP supply as well as to the on-river Priority 4 water users. Therefore, the Arizona supply to all Priority 4 users would be limited to 1.0 maf, without additional reductions applied to on-river contractors. As a clarification, the shortage year supply could be reduced from a normal year supply by as much as 35%. Under the Seven Basin State Proposal, the total Arizona supply would be reduced to 2.3 maf, as described above.
- 14 | • The DEIS projects that the interim period ends in 2015. The Seven Basin States Proposal assumes the end of the interim period is 15 years after it begins. Given the timing of implementation of the record of decision for this EIS and the schedule of completion for the California Quantification Agreement, it more likely that the interim period will start in 2001 and end in 2016.
- 15 | • ADWR believes the Bureau has mis-characterized and therefore incorrectly analyzed the potential impacts of shortages on CAP Indian Trust Assets in Section 3.14.3. The Record of

9: Comment noted. Reclamation formulated the Storage Protection Alternative as an approximation of the maximum amount of surplus water that could be determined during the interim period, while maintaining a certain amount of water in storage for protection against future shortages.

10: Revised depletion schedules provided by the Basin States were used in analyses for the FEIS. See response to Comment 14-10 for more detail.

11: For the FEIS, intrastate transfers were considered and modeled in all five surplus alternatives that were evaluated in the FEIS. This includes the 1988 IID/MWD agreement. The baseline (No Action) conditions were modeled with and without the transfers. A sensitivity analysis comparing a baseline with and without transfers to the Seven Basin States alternative, was conducted to evaluate the sensitivity of the transfers. Please see Appendix L of the FEIS for the results of this sensitivity analysis and Section 3.4 for the results of the water supply analysis.

12: Revised depletion schedules provided by the Basin States were used in analyses for the FEIS. See response to Comment 14-10 for more detail. The Lower Division depletion schedules are Attachment H of the FEIS.

13: See response to Comment 14-11 regarding Arizona shortages.

14: The interim surplus criteria alternatives under consideration would be used in years 2001 through 2015 to make surplus determinations for the next year. Thus, water deliveries in years 2002 through 2016 would be subject to interim surplus criteria. Discussion has been added to Chapter 2 of the FEIS to provide clarification.

15: ADWR's comment is noted. ADWR and Reclamation have a rather longstanding difference of opinion regarding shortage impacts on CAP. Under the GRIC Settlement, it is hoped that a resolution of this disagreement may be reached. The disagreement is over which priority takes a reduction first; the CAP fourth priority (M&I water greater than 510,000 AF) or the CAP third priority requiring a reduction of 25 percent of GRIC agricultural water and 10 percent of other CAP Indian agricultural water.

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Decision Dated February 10, 1983 issued by Secretary of the Interior James Watt describes the shortage sharing provisions as follows:

"During years of water supply shortages, Indian users and non-Indian M&I uses would share a first priority on project water supplies. Depending upon severity of shortages, miscellaneous uses would be reduced pro rata until exhausted; next, non-Indian agricultural uses would be reduced the same way until exhausted; next 25 percent of the Gila Tribe allocation and 10 percent of the irrigation amount allocated to Indian contractors other than the Gila Tribe would be reduced pro rata until exhausted. Finally, the remaining water contracted for by 11 Indian entities under existing contracts and 75 percent of the Gila Tribe allocation would share a priority with 510,000 acre feet of non-Indian M&I uses ...and would be reduced on a proportional basis, and within each class on a prorated basis, based on the amount of water actually delivered to each entity in the latest non-shortage year."

While this ROD language, which is incorporated by reference in CAP M&I subcontracts, clearly describes the order in which reductions should take place, the Bureau's description of the priority system in the DEIS includes a fourth priority that reduces M&I to 510,000 acre feet before requiring the reduction by 25% to GRIC agriculture and 10% to the other tribes agriculture. The DEIS needs to be corrected to reflect that CAP third and fourth priorities have been reversed. In addition, the proposed GRIC settlement contains a provision that would modify the shortage sharing formula. Since the DEIS describes the CAP water supply conditions if the GRIC settlement is included, that description should be based on the new shortage sharing formula.

ADWR looks forward to working with the Bureau to complete the planning process leading to the implementation of the Interim Surplus Guidelines of the Colorado River. If you have any questions regarding our comments, please contact Herb Dishlip at 602-417-2440.

Sincerely,


Rita Pearson Maguire
Director

RPM:tjm